

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION**

**JOHN DOE**

**PLAINTIFF**

**V.**

**CIVIL ACTION NO. 2:18-CV-153-KS-MTP**

**THE UNIVERSITY OF SOUTHERN  
MISSISSIPPI, *et al.***

**DEFENDANTS**

**ORDER**

This cause is before the Court on the Plaintiff John Doe's Motion for Second Temporary Restraining order and Injunctive relief [40] filed on October 25, 2018.<sup>1</sup> Defendants have not responded in writing, but a brief hearing on the motion was heard on October 26, 2018. Having reviewed the motion and heard from counsel, and otherwise being duly advised in the premises, for the reasons set forth below, the motion for a temporary restraining order will be **denied**. The Court reserves ruling on the Motion for Injunctive Relief until such time as the issues have been fully briefed.

**Temporary Restraining Order**

Federal Rule of Civil Procedure 65 provides the procedures for both injunctions and TROs. Plaintiff seeks a TRO without notice pursuant to Rule 65(b)(1), which provides that a temporary restraining order may be issued without notice to the adverse party only if:

- (A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damages will result to the movant before the adverse party can be heard in opposition; and

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<sup>1</sup> Plaintiff seeks the present temporary restraining order and requests a later hearing on a preliminary injunction. [40] at p.3.

(B) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

The Court finds that neither element has been met. The rehearing on the misconduct allegations has been set for November 21, 2018, which is enough time hence to allow the Court to rule on the proposed procedure, and thus, there is no imminent risk of harm, calling for the entry of a temporary restraining order. Accordingly, the motion, in so far as it seeks a temporary restraining order, is denied.

**Preliminary Injunction**

The Court reserves its ruling as to any further preliminary injunctive relief until such time as both parties have been heard. The Defendants shall file a response on or before November 8, 2018. Plaintiff may file a reply by November 15, 2018. The Court will then endeavor to issue its ruling sufficiently in advance of the disciplinary rehearing.

SO ORDERED AND ADJUDGED this 26th day of October, 2018.

/s/ Keith Starrett \_\_\_\_\_  
KEITH STARRETT  
UNITED STATES DISTRICT JUDGE